App. F. IX-4

1926. 27

File No. 276. 26

Previous References (Courts-)

(A) dept 20 of 1910-11 (1-5)

Serial Nos. 1-6.

Later References

do 28-27(1-2)

PRESERVED

General and Revenue Secretariat.

Serial Six.

Part B for July 1927

SUBJECT

Addendum to Rule 41 Civil Procedure Code providing for explanation for delay in filing the memo of appeal

6) From the Registr. Chief Court. No. P 6420 of 14/6/27

Sanctions the proposed addendum.

14/7/27

G. R. S. III—1]. 1927

GENERAL AND REVENUE SECRETARIAT.

Cts

NOTES.

File No. 276-27

FILE HEADING.

Addendum to ~~make~~ Rule 1 of Order 41, Civil Procedure Code providing for explanation for delay in filing the memorandum of appeal

From

The Regr. High Court

Regr No. 719 Dated 2.4.1927 Received 4.4.27

Diary No. 4527	Enclos. 1	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards an addendum to Rule 1 of Order 41, Civil Procedure code, prescribing that a petition supported by an affidavit should ~~accompany~~ be enclosed when an appeal is presented after the period of limitation setting forth the facts on which the appellant relies to satisfy the court as to the cause for delay.

NOTES AND ORDERS.

1) The Civil rules of Practice already provides for this in substantial terms. (Vide Rule 6 - page 24. Vol I - Civil Rules and orders) This is now to be embodied in the Code. It is also stated that in Madras there is such

NOTES—First Sheet.

WD 1881—GPB—30,000—1-8-21

4527

WD 01229—GPB—37,500—1-9-26
App. F. III—2j

General and Revenue Secretariat

C- File No. 276. of 1926 (2

Serial No.

a provision. The Rule committee have approved and no objections are stated to have been received when published in the gazette.

2) The addendum proposed may perhaps be sanctioned and the Residency intimated of the proposed addendum and formal sanction conveyed to the Chief Court after the receipt of acknowledgment from the Residency.

3) Send with a draft to the Residency.

B 29/4/27 Apd 29/4

4) Please put up the Madras Rule referred to.

21/4

Send

5) The copy referred to is not available in the G.O.S. Library. Send with a draft D.O. asking for the copy from the Chief Court

B 28/4/27 Apd 29/4

6) Done 30/4

2 To

The Registrar, Chief Court.

D.O.No. 5772 dt 30/5/27

Requests him to send for reference & return the Madras Civ

NOTE—Contn. Sheet

WD 01229—GPB—37,500—1-9-26
App. F. III—2]

General and Revenue Secretariat

File No. 276 of 1926

Serial No.

Procedure Code Containing the Sub-rule refd to in para 2 of your letter of the 2nd April 27

3

From

The Reg. Chief Court. Letter no C 7 1948 5/27

Forwards for reference and return Mulla's Civil Procedure Code Pb. Edition containing the rule in question.

7) Submitted with reference to para (4) above

8/ 6/5/27 AM 7/5

8) The rule proposed is adopted from the Madras Rule (page 1205 Mulla's C.P.C) in modification of the present rule 6 page 24 of Vol I Civil Rules.

9) The proposed rule may be forwarded.

Reg 2-D) 8/ 9/5

10) Secy is on leave

20/ 10/5.

I member

11) A/ 10/ 11/5/27

8/ 11.5.27.

12) Draft to Reg 8/ 11/5

11553 19/5

NOTE—Contn. Sheet

5469
56 (4

App. F. III—2]

General and Revenue Secretariat. | C5 File No. 276 of 1926-27

Serial No.

13) Land with 2 drafts (draft to Residency + draft returning the Book to the Regr. Mehkil Court)

14) Issue this

Issued no PS-9795 (18.7.27)

12/5/27 Apd 13/5

15) Draft to the Regr. is sealed

Sec'y 2-D) 14/5

4 To

16) Apd 14.5

The Secy to the Resident

no Pol 993 & 18/5/27. 17) Issue 16/5

States that it is proposed to issue a sub rule 3, to rule 1 & Order XLI C.P.C & that the rule will take effect from 1-7-1927

Issue A

From

The Secy to the Resident

Letter no 4800 & 27.5.27

Acknowledges the receipt of the letter forwarding a copy of an addendum to the rules under Order 41 (4) of the Mysore Code of civil Procedure, which it is proposed to bring into force

18) Linked with a draft for sanctioning the addendum

ISSUE & RESUBMIT. 12780 7/6

2/6/27 Issued 6/6

19) Draft Go. sanctioning rule is linked for appl

Sec'y 2-D 6/6

20) The draft rule is a copy of the rule in force in Madras. Hence the appl

21) Apd

Please declare Setg Duty that the rules are sent to Resdy. only Legislation after which the Laws need be sent.

6/6/27 8/6/27

NOTE—Contn. sheet.

GPB—5,000—30-3-27

5465 (5

General and Revenue Secretariat. | (A)File No. 276 of 1926. (N)

Serial No.

6 (Ho no P6420) 16.6.27

Sanctions the proposed addendum with effect from 1.7.27

Subd

23) There seems to be a reference in the Legislative standing rule regarding the sending up of amendments of the Civil Procedure Code to the Residency. The Legislative section may be requested to put up the file

B/ 22/6

24) Subd 22/6

25) Kind reference is invited to the last para of the Residency letter dated 21.3.1911, when communicating the Govt of India Consent to the Code of Civil Procedure, at Page 6 of Part-II A collection to Legn 20 of 1910-1911, the Residency have stated that the consent is on the condition that the Resident should be informed of all changes in the Rules of Procedure contained in the First Schedule to the Code. Subd with reference to para 21 supra.

130/5/7

27.6.27 A 28/6

26) Kind reference is invited to para 3.(7E:2). Reference to para 21.

Sec'y L.D

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

27 Subd Misc letter records [illegible] 1/7 27/6/27 5/7/27

(6 45-27 P

Telgm:
"JUSTICE

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore**.....2nd..April.....192 7 .**

R. O. C. No. 719.....
Dis. 26-4 Encl

As 276-281

From

A. Sreenivasaragavachari, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

To

B. Nagappa, Esq., Bar-at-law.,
Secretary to the Government of His Highness
the Maharaja of Mysore, Law Department,
B A N G A L O R E.

Sir,

I am directed to state that under rule 6 of the Chief Court Rules (Vide page 24, Vol.I, General Rules and Orders - Civil) it is laid down that all appeals presented after the time prescribed by law must be accompanied by an explanation of the delay supported by an affidavit and that the statement of the cause of the delay should be made in the memorandum of appeal; but in many cases the appellant or his counsel does not state in the memorandum of appeal that it is out of time, nor does he file an affidavit explaining the delay. In such cases the memorandum of appeal has to be returned for necessary amendment and the appeal posted for hearing after notice to respondent.

In Madras under sub-rule (3) to Rule 1, Order XLI Civil Procedure Code, in such cases a petition supported by an affidavit setting forth the facts on which the appellant relies to satisfy the court that he had sufficient cause for not preferring the appeal within the period of limitation shall accompany the memorandum of appeal and the court shall not proceed to deal with the appeal in any way (otherwise than by dismissing it either under Rule 11 of that Order or on the ground that it is not satisfie

to the sufficiency of the reasons for extending the period of limitation), until notice has been given to the respondent and h objections, if any, have been heard.

The Madras procedure seems to be preferable to the one now force here of including the cause of the delay in the memorandum of appeal, since a separate Judicial Order has to be passed condoning the delay before the admission of the appeal.

The matter was referred to the Rule Committee for a report, and approved by it. The draft of the rule was also published in the issue of the Mysore Gazette dated the 10th February 1927; but no objections to its being introduced or any suggestion regarding it have been received from any person.

I am therefore to request that Government may be pleased to accord sanction under Section 126 Civil Procedure Code, to the accompanying rule being added as sub rule (3) to Rule 1 of Order XLI of the Civil Procedure Code of 1911.

I have the honour to be,

Sir,

Your most obedient servant.

KVN/-

M Venkatasubbiah
For Registrar.

(8)

' Add the following as sub rule (3) Rule 1 of Order XLI, Civil Procedure Code 1911:-

" When an appeal is presented after the period of limitation prescribed therefor, it shall be accompanied by a petition supported by affidavit setting forth the facts on which the appellant relies to satisfy the court that he had sufficient cause for not preferring the appeal within such period, and the court shall not proceed to deal with the appeal in any way (otherwise than by dismissing it either under Rule 11 of this Order or on the ground that it is not satisfied as to the sufficiency of the reasons for extending the period of limitation) until notice has been given to the respondent and his objections, if any, to the court acting under the provisions of Section 5 of the Limitation Regulation No. IV of 1911 have been heard".

KVN/-

M Vivasinga
for REGISTRAR.

APP. F. VI. Gl.

(9)

SUBJECT .....

Section C/S.

File No. 276-26

Diary No. of letter replied to.....

No. 05772 Seria No. 2

General and Revenue Secretariat

( )

the *192*

To .....

Dear Sir,

Date of issue 3/5/27

Signed by M. T.S.

Please send for reference and ~~reference~~ return, in connection with the addendum to Rule 1 of order 41, Civil Procedure Code re the filing of a petition supported by an affidavit along with the appeal memo presented after the period of limitation, the Madras Civil Procedure code, containing the ~~proposed~~ Sub rule, referred to in para 2 of your letter no RVC 719-26-27 dt 2.4.27

Yours sincerely

List of enclosures .....

Copied by .....

Examined by .....

8/30/4

To

A. Srinivasa Ayyangar Esqr B.A.B.L

Rep. Chief Court

over

WD 0562—GPE—31,000—17-8-25

2/5/27

5066 276 P (10

CHIEF COURT OF MYSORE

D.O.No.C.719 26-7
Ens on book.

Bangalore, dated 4th May 1927.

cts 276-26-3

Dear Sir,

Your D.O. No.P.5772.Cts.276-26-2 dated 3rd May 1927. I send for reference and early return Mulla's Civil Procedure Code, - 8th Edition, which contains the rule in question at page 1245.

Yours sincerely,

5/5/27

To

T. Singaravelu Mudaliar, Esq., B.A., B.L.,
Assistant Secretary to Government,
Law Department,
Bangalore.

TKV.

D.O. No. 5979 (1) GENERAL AND REVENUE SECRETARIAT, (11

Bangalore, 18/5/1927

Dear Sir,

I am desired to return herewith Mulla's Civil Procedure Code, 8th Edition, received with your D.O. letter No. C. 719/26-27 dated the 4th May 1927.

Yours sincerely,

To,

A. Sreenivasaraghavachari Esq., B.A.B.L.,

Registrar, Chief Court of Mysore,

Bangalore.

Vol 99 3 (12

& 18.5.27.

Ct 276-26-4

To

The Secretary to the

Hon'ble the Resident in Mysore.

Sir,

I am directed to state that Rule 6 of the Chief Court Rules laying down that all appeals presented after the time prescribed by law must be accompanied by an explanation of the delay supported by an affidavit and that the statement of the cause of delay should be made in the memorandum of appeal or application, does not provide for cases of default and is not therefore effective. It is therefore proposed to issue the following rule as ~~sale~~ rule 13 to Rule 1 of ~~Order~~ XLI C.P.C. The Rule will take effect from 1-7-1927.

(page 24. vol I. general Rules Orders. civil)

Draft issued 18-5-27 vide by Mr B. Nagappa.

I have etc.,

18/5

Secy. to Govt. Law Dept.

B/ 12/5/27

TD

18/5

5469/26 56068

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. 4800 ENCLOS. 40-1901

Dated Bangalore, 27th May 1927. (13)

Pol. 1341.

FROM

Major K. A. G. Evans Gordon,

SECRETARY TO THE RESIDENT IN MYSORE.

GEN. & REV. SECTT. Pr P 27. MAY 1927 G. D. SECTION.

To

The Secretary to the Government of Mysore,
Law Department.

Ch 276-26-5

Subject :—

The Mysore Code of Civil Procedure.

SIR,

I am directed to acknowledge the receipt of your letter No. Pol.993, dated the 18th May 1927, forwarding a copy of an addendum to the rules under O.41 (1) of the Mysore Code of Civil Procedure, which it is proposed to bring into force.

I have the honour to be,
Sir,
Your most obedient servant,

for SECRETARY TO THE RESIDENT.

5469.

G.R.S. VI G 34]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

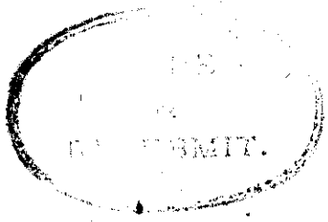
General and Revenue Secretariat

( )

, *the* 192 .

Date of issue.... 14/6/27

Signed by.....



May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

Section C

File No. 276-26

Serial No. 6

Proceedings of the Government of His Highness the Maharaja of Mysore

Read—

Letter no Roc 719/26-27 dt 2.4.1927 from the Registrar Chief Court stating that Rule 6 of the Chief Court Rules laying down that all appeals presented after the time prescribed by law must be accompanied by an explanation of the delay supported by an affidavit and that the statement of the cause of delay should be made in ~~Order Thereon No~~ the memorandum of appeal or application, does not provide for cases of default and is therefore not effective and requesting sanction to the accompanying addendum to Rule 1 of order XLI Civil Procedure Code with

[There enter the addendum]

JB420

...ctioned. The rule

... take effect from 1-7-27

25/6/26 Lawley

... letter Cant mdcccxxvi.

1.7.27
from 6/6

List of enclosures.

Copied by

Examined by

WD 1885—GPE—1,000,00—21-12-21